

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES BUTLER,)
BOOKING #68669,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 2:09-CV-111-TMH
)
DR. BATES, et al.,)
)
Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

This cause of action is pending before the court on a 42 U.S.C. § 1983 complaint filed by James Butler [“Butler”], a former county inmate, on February 12, 2009. In his complaint, Butler challenges the adequacy of medical treatment provided to him during his incarceration in the Montgomery County Detention Facility. The order of procedure entered in this case specifically directed Butler to immediately inform the court of any change in his address. *Order of February 13, 2009 - Court Document No. 4* at 6.

On September 15, 2011, this court entered an order, a copy of which the Clerk mailed to Butler. The postal service returned this order because Butler no longer received mail at the address he had provided to the court. In light of the foregoing, the court entered an order requiring that on or before October 7, 2011 Butler inform the court of his present address. *Order of September 29, 2011 - Court Doc. No. 31*. This order specifically cautioned Butler that his failure to comply with its directives would result in a recommendation that this case be dismissed. *Id.* The court has received no response from Butler to the aforementioned order. As is clear from the foregoing, Butler has failed to comply with the directives of the orders entered by this court and this case cannot

properly proceed in his absence. The court therefore concludes that this case is due to be dismissed.

CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to prosecute this action.

It is further

ORDERED that on or before October 28, 2011 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 13th day of October, 2011.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE

